

Town of Calais
Development Review Board
Conditional Use Approval
Findings and Decision

In re: Conditional use permit for Bret Mugford and Brunella Mugford
Permit Application No. 2024-08

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves an application submitted by Bret Mugford and Brunella Mugford for vertical expansion to a non-conforming structure in the Shoreland Overlay District (hereinafter SHROD) and referred to the Development Review Board (hereinafter the DRB) by the Town of Calais Zoning Administrator under the Town of Calais Land Use and Development Regulations, as amended March 5, 2024 (the Zoning Regulations).
2. The application was submitted April 15, 2024, and considered at a hearing of the Development Review Board (DRB) at the Calais Municipal Office on June 10, 2024 and at a continued hearing on July 3, 2024. A copy of the application is available on file at the Calais Town Office.
3. A notice of a public hearing was posted pursuant to Bylaw 8.4(C) at the Calais Town Office, East Calais Post Office, Adamant Co-op, Maple Corner Store, Adamant Coop, and on the Calais Town website and Front Porch Forum.
4. On May 24, 2024, a copy of the notice of a public hearing was mailed to the following owners of properties adjoining the property subject:
 - a) Charles & Corrine Smith 170 Phelps Rd., Barre, VT 05641
 - b) Tamera Pariseau, 178 Hemlock Rd., East Calais, VT 05650
 - c) Canton Associates, LLC, 641 Shaw Mansion Rd., Waterbury, VT 05677
 - d) Waldo & Lucille Mugford Life Estate, PO Box 841, Barre, VT 05641
 - e) Jeffrey & Joanne Mugford, 9 Wheeler Rd., West Berlin, VT 05602
5. The application was considered by the Development Review Board at a public hearing on June 10, 2024. The Development Review Board reviewed the appeal under the Zoning Regulations and heard testimony from the Applicants. No abutters or interested parties attended the hearing.
6. At the June 10, 2024 hearing, the following were present.
 - a) Willa Farrell, DRB chair
 - b) Gabrielle Malina, DRB member
 - c) Rachel Seelig, DRB member
 - d) Scott Bassage, DRB clerk
 - e) Brunella Mugford, applicant
 - f) Bret Mugford, applicant

7. At the conclusion of the hearing, the record was held open to allow the applicant to submit additional documents, and the hearing was continued to a date certain of July 3, 2024.
8. The application was further considered by the Development Review Board at a public hearing on July 3, 2024. The Development Review Board reviewed the appeal under the Zoning Regulations. Testimony was provided by Bret Mugford at the continued hearing. No abutters or interested parties attended the hearing.
9. At the July 3, 2024, hearing, the following were present.
 - a) Willa Farrell, DRB chair
 - b) Gabrielle Malina, DRB member
 - c) Rachel Seelig, DRB member
 - d) Scott Bassage, DRB clerk
 - e) Bret Mugford, applicant
10. At the conclusion of the hearing, the record was closed.
11. The testimony of the applicants is contained in the minutes of the DRB meeting of June 10, 2024, and July 3, 2024, and is incorporated by reference into this decision.

FINDINGS

Based on the application and testimony the Development Review Board makes the following findings:

1. The applicants appeal a decision of the Zoning Administrator dated May 9, 2024, referring the application to the DRB for approval of variances and conditional use approval for expansion of a pre-existing non-conforming lot in a Rural Residential District in the Shoreland Overlay District in the Upland Zone. The subject property is in the Town of Calais, tax map parcel ID no. WL0117.
2. The property is a .25 acre parcel on a private road located at 117 Hemlock Road.
3. The property is located in a Rural Residential District within the SHROD in the Upland Zone described in the Town of Calais Zoning District Map on record at the Town of Calais office and in section 2.4 (C) of the Zoning Regulations.
4. The appeal requires review under the following sections of the Zoning Regulations
 - a. Article 2
 - i. Section 2.2 Zoning District Standards,
 - ii. Table 2.2 Rural Residential District (RR1)
 - iii. Table 2.4: Shoreland Overlay District
 - b. Article 3, Requirements and Standards that Apply to All Zoning Permits
 - i. Section 3.8 Parking
 - ii. Section 3.13: Steep Slopes
 - iii. Section 3.15: Erosion and Sediment Control and Stormwater Management
 - c. Article 5 Development Review
 - i. Section 5.2 Development Review Application
 - ii. Section 5.3: Conditional Use Review

Article 2, Section 2.2 and Tables 2.2 and 2.4

1. The .25 acre lot is a pre-existing nonconforming lot that is 120 feet from Sabin Pond with 180 feet of road frontage.
2. Applicants seek a variance because any change of use in the Upland Zone of the SHROD requires DRB approval as described in Table 2.4 (L). Applicants propose a change of use from seasonal camp to single-family dwelling and elevation of the camp.
3. The proposed change of use from seasonal dwelling to single-family dwelling is permissible in the RRD per the approved installed septic designed for a three-bedroom dwelling (wastewater permit #WW-5-8385).
4. The proposed vertical elevation of the structure will not exceed 35 feet.
5. There is no proposed increase in the building footprint.
6. No extraction or quarrying is proposed.
7. There is no sensitive natural community in the parcel.
8. The proposed parking area is not a driveway.
9. Applicants received a Shoreland Project registration approval from the Watershed Management Division of the Department of Environmental Conservation for application number 4266 on June 24, 2024, based on the following description:
 - a. Teardown/rebuild of existing camp and deck 40' x 30' (120' from shoreline), identical footprint
 - b. Removal of one tree directly in front of the camp, 4 square feet. (115' from shoreline)
 - c. Removal of existing driveway 9' 6" x 50' (110' from shoreline)
 - d. Creation of new smaller parking in front of camp 30' x 12' (110' from shoreline)
 - e. Revegetation 10' x 6' area plant native shrubs (115' from shoreline)

Article 3, Section 3.8, 3.13, and 3.15

10. The proposed development does not implicate Sections 3.2, 3.3, 3.4, 3.9, 3.10, or 3.11 of Article 3.
11. Section 3.5 - Height Requirements: The development will remain within the height requirements for RR1, and there are no separate height limitations specific to the SHROD.
12. Sections 3.6 & 3.7 - Lot and Yard Requirements: The parcel will have only one principal use, single-family dwelling. The lot does not meet dimensional standards for RR1 or SHROD but is a pre-existing nonconforming small lot which has not been conveyed to create common ownership that would merge the lot with contiguous lots.
13. Section 3.8 - Nonconforming Uses & Structures
 - a. Nonconforming Structures: Nonconforming structures may be repaired, restored or expanded, including a vertical expansion, with DRB approval, subject to conditional use review, as described below. In the alternative, a variance is granted subject to the same conditions.
14. Section 3.10 - Parking
 - a. The proposed parking area of 30 feet by 12 feet (360 square feet) for two cars exceeds the dimensional standard of 8.5 feet by 18 feet per car (153 square feet per car or 306 square feet for two cars).
 - b. The parcel provides sufficient space for snow storage and removal.

15. Section 3.13 – Steep Slopes
 - a. The slope of the project area is 17% and the proposal requires review under Section 5.3.
16. Section 3.15 - Erosion and Sediment Control and Stormwater Management
 - a. The development will create 1,200 square feet (40 feet by 30 feet camp and deck) of disturbed area, so the Erosion and Sediment Control Standards in Section 3.15 (D)(1) apply.
 - b. The Stormwater Management standards do not apply because the development will not increase existing impervious surface to the threshold in Section 3.15 (B) (2).
 - c. Applicants received a Shoreland Project registration approval from the Watershed Management Division of the Department of Environmental Conservation for application number 4266 on June 24, 2024.

Article 5

17. Section 5.2 - Development Review Application
 - a. The requirements of Section 5.2, Development Review Application are satisfied. Applicant provided the necessary application, and general location map.
18. Section 5.3 3 - Conditional Use Review
19. The following findings are made regarding the required and discretionary conditional use standards:
 - a. The project will be neutral in its impact on existing community facilities or services. The structure is on a private road, served by its own well and wastewater system. The lot has its own parking area. There are no anticipated changes in the impact on fire protection facilities, nor on utilities.
 - b. The development is consistent with the character of the neighborhood which is made up of a combination of seasonal dwellings and single-family dwellings.
 - c. The potential impact of traffic generated by the development is limited to the winter months and during the period of construction and is not expected to be significant nor result in unsafe conditions.
 - d. As discussed elsewhere in this decision, the development is required to be completed in compliance with all other regulations and ordinances in effect.
 - e. The development is not expected to interfere with the sustainable use of renewable energy resources, as it is not likely to impact neighboring property owners' access to such resources, nor to impact their future availability.
 - f. No health or environmental consideration was identified that could arise from the development that require conditions under the discretionary health and environmental standard.
 - g. The parcel is on a private road, no access or circulation concern was identified that require conditions under the discretionary access and circulation standard.
 - h. No changes resulting from the development are expected to impact the character of the area affected. Therefore no landscaping or screening conditions were identified as necessary conditions for the project.
 - i. As described below, this permit is granted with the condition to comply with all requirements and conditions imposed in the approval of Shoreland Project 4266

issued June 14, 2024; no additional required buffers, open space, or storm water conditions will be required.

Article 1, Section 1.8

20. The DRB has concluded it is authorized to grant a conditional use permit for change in use and vertical expansion of the structure in the SHROD pursuant to Section 3.8 which allows expansion of nonconforming structures. In the alternative, if Section 3.8 and Table 2.4 are in conflict, we concluded that a variance will be granted based upon all of the following:
21. There are unique physical circumstances and conditions peculiar to this property. The structure is not habitable for year-round use without reconstruction.
22. These conditions are particular to the property and not a result of the zoning regulations for RR1 or SHROD.
23. There is no possibility of development in strict conformity with the zoning regulation.
24. A variance is necessary to enable reasonable use of the property.
25. Applicants did not create the unnecessary hardship.
26. The variance sought will not alter the essential character of the neighborhood, the RR1 or the SHROD. It will not substantially or permanently impair the appropriate use or development of adjacent properties, reduce access to renewable energy resources, or be detrimental to the public welfare.
27. This variance represents the minimum that will afford relief and the least deviation possible from the zoning regulations and Calais Town Plan. Specifically, the change in use to year-round dwelling is not expected to result in a significant increase in traffic, the vertical expansion of the structure will not exceed 35 feet, and the removal of the current driveway and creation of a new parking area is expected to reduce stormwater runoff.

DECISION

The application for variance for expansion in the upland zone of the SHROD is GRANTED, and conditional use permit for conversion from seasonal to single-family dwelling with vertical expansion to two stories up to 35 feet and change to parking in the SHROD is GRANTED with the following conditions:

1. The development must be completed as proposed, which is the minimum variance from the Zoning Regulations and Calais Town Plan necessary created by the unique physical circumstances and conditions of the parcel. Any substantial modification of the development, such as requiring additional excavation, change in the height of the final development, increase in square footage, or change to the plan to remove and re-vegetate the current driveway and create a new parking area shall require notification of the DRB and may require a new permit application.
2. Applicants must complete the development consistent with the Shoreland Project 4266-SP registered as approved June 14, 2024 and follow erosion control standards and best management practices as practicable and found here: <https://dec.vermont.gov/sites/dec/files/documents/StormwaterLowRiskSiteHandbook.pdf>.

3. Pursuant to Table 2.4(J), the applicants must conduct the development such that it complies with the Shoreland Protection Act, all other requirements of the Calais Shoreland Overlay District (SHROD), Erosion and Sediment Control and Stormwater Management Standards.
4. Pursuant to Section 3.7, if the wastewater system fails, the owners are required to obtain from the Agency of Natural Resources, Department of Environmental Conservation, Division of Wastewater Management either a wastewater permit or certification that the wastewater system has been modified or replaced and no longer constitutes a failed system.

Voting to approve: Scott Bassage, Willa Farrell, Gabrielle Malina, Rachel Seelig

Voting to deny: none

Motion passed: 4 – 0

Abstentions: none

Dated at Calais, Vermont, this 30th day of July 2024.



Willa Farrell, Chair